

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

60701

FILE: B-186108

DATE: April 1, 1976

MATTER OF: Power Equipment Company

99121

DIGEST:

Protest filed more than 10 days after notice of initial adverse agency action is untimely and will not be considered.

By letter of March 5, 1976, Power Equipment Company (PECO) protested to this Office the award of a contract for a steam boiler under invitation for bids (IFB) No. DAAA03-76-B-0013, issued by the Pine Bluff Arsenal, Department of the Army.

The record shows that PECO protested to the contracting officer by Mailgram of November 13, 1975, against award to any other bidder under the solicitation. In response to that mailgram, PECO was informed by letter of December 1, 1975, that award had been made to another bidder.

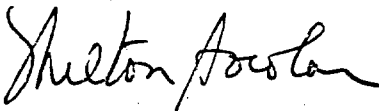
The record indicates that PECO exchanged further correspondence with the contracting officer concerning the award during January 1976. By letter of January 30, the contracting officer notified PECO that the steam boiler had been delivered and that no further notification as to the status of the procurement would be furnished to PECO. Thereafter, on March 15, 1976, PECO's protest was filed with this Office.

Section 20.2 of our Bid Protest Procedures (40 Fed. Reg. 17979, April 24, 1975) states in pertinent part that:

"(a) If a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of * * * initial adverse agency action will be considered. * * *

"(b) * * * any protest received in the General Accounting Office after the time limits prescribed in this section shall not be considered * * *."

Under section 20.2(a), PECO's protest in order to be timely had to be filed with our Office within 10 days (working days) of formal notification of initial adverse agency action on its protest. The contracting officer advised PECO by letter of December 1, 1975 that another bidder had received the award. Since PECO's protest was filed with this Office more than 10 days after it was notified of this agency action, the protest must be dismissed as untimely.

for 
Paul G. Dembling
General Counsel